

Lease Agreement Number (assigned by WRD): L-417

STATE OF OREGON
WATER RESOURCES DEPARTMENT

Short-Term Water Right Lease Agreement
Pursuant to ORS 537.348(2) and OAR 690-077-0077
for
Leases of Existing Water Rights for Instream Use

This Lease Agreement is between:

Lessor #1:

(Name) Swalley Irrigation District
(Mailing address) PO Box 5126
(City, State, Zip Code) Bend, OR 97708-5126
(Telephone number) 541-388-0658

Lessor#2, 3, etc.



The water right to be leased is located in Deschutes County

Lessee (if different than Oregon Water Resources Department):

(Name) Deschutes Water Exchange
(Mailing address) 700 NW Hill Street
(City, State, Zip Code) Bend, Or 97701
(Telephone number) 541-382-5186

Trustee:

Oregon Water Resources Department
158 12th Street NE
Salem OR 97301
(503) 378-8455

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1.1 Lessor #1 is the owner, or authorized agent for owner of property located at: Township N, Range W, Section and Tax Lot number See Attached. If the water right appurtenant to these lands is also appurtenant to lands owned by others, then Attachment 1, (tax lot map of lessor's property) needs to be included.

1.2 Lessor #2 is the (Check one):

- Not applicable
- Official representative of , the irrigation district which conveys water to the subject water rights.
- Another party with an interest in the subject water rights representing .

- 1.3 For the lands being leased, list all water rights appurtenant to the lessor's property. Indicate if there are any supplemental or overlying rights.

Certificate No. 74145

Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No

- 1.4 **Subject Water Rights.** Lessor proposes to lease the water rights listed in 1.3. The right(s) to be leased are further described as follows:

Certificate No.: 74145

Priority date: September 1, 1899 Type of use: Irrigation & Industrial

Legal Season of Use: April 1 to November 1

Is the entire water right certificate being leased? Yes No

If no, list the acres to be leased by legal description of township, range, section, and $\frac{1}{4}$ $\frac{1}{4}$ which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T __, R __, Section __, $\frac{1}{4}$ $\frac{1}{4}$ - 91.76 acres to be leased

Enter additional places of use here, using format above:

See Attached Spreadsheet

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: 91.76 Acres:

78.14 acres Irrigation and 13.62 of INDUSTRIAL

Acre-feet of storage, if applicable:

Total rate associated with leased rights (cfs):

IRR	Season 1: 0.94	Season 2: 1.26	Season 3: 2.33
INDUSTRIAL	Season 1: 0.16	Season 2: 0.22	Season 3: 0.41
TOTAL	Season 1: 1.11	Season 2: 1.48	Season 3: 2.74

(Use additional lines if there is more than one rate associated with the water right.)

Total duty associated with leased rights (AF): IRR 748.6

IND 130.5

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: None

If you need to enter another leased right, please use the additional water rights form.

- 1.5 **Validity of Rights.** Lessor(s) attests (mark one) that:

- the water has been used over the past five years according to the terms and conditions of the owner's water right certificate or as an instream water right or
- the water has not been used over the past five years according to the terms and conditions of the owner's water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)()(include necessary supporting documentation as Attachment 3).

2.1 **Public Use.** This lease will increase streamflows which will benefit:

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat
- Pollution abatement
- Recreation and scenic attraction

2.2 **Instream use created by lease.** The instream use to be created is described as follows:

Deschutes River

Tributary to Columbia River in the Deschutes Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): Swalley Main Canal to Lake Billy Chinook

Total volume in acre-feet: TOTAL 512.69

IRR 436.59 INDUSTRIAL 76.10

Rate in cfs: TOTAL Season 1: 0.63 , Season 2: 0.84 Season 3: 1.56

IRRIGATION: Season 1: 0.54 Season 2: 0.72 Season 3: 1.33

INDUSTRIAL Season 1: 0.09, Season 2: 0.13, Season 3: 0.23

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from ____ through ____.
- Other (describe): ____

If you need to enter more instream uses, please use the additional water rights form.

2.3 **Term of lease.** This lease shall terminate on October 31, 2007.

2.4 **Compensation.** The Lessor has agreed to lease subject water right for the sum of \$1.00, or other valuable considerations and for the benefit of the state of Oregon.

2.5 **Flow protection.** The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see section 2.2). No party is required to continuously measure the flow of the waterway described in Section 2.2.

2.6 **Termination provision.**

- For multiyear leases, lessor *shall* have the option of terminating the lease each year, prior to the lease being exercised, with 30 day written notice to the Department.
- For multiyear leases, lessor *shall not* have the option of terminating the lease each year, prior to the lease being exercised, with written notice to the Department.

- 3.1 **Accuracy.** The Undersigned Lessor/s, Lessee and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete. If after the lease is signed, any information is determined to be false, the lease may be modified or terminated. This lease only exercises the water rights being leased; for the term of the lease; it shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.
- 3.2 **Lease.** All Lessors agree to lease the water rights listed in 1.4 for instream use for the term of this Agreement through Lessee to Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077-0077.
- 3.3 **Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077- 0070 or OAR 690-077-0075 a new injury review shall be required, and a prior short term lease shall not set a precedent for the amount of water to be leased or transferred instream.
- 3.4 **Suspension of original use.** During the period of the lease, the owner agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights. In the event that a supplemental water right is not part of this lease, it may be subject to forfeiture.

Lessor #1: Janet Lee Date: May 27, 2003
 Interim Mgr. - Swallow Irrigation District
 For additional Lessors, type in space for signature and date

Lessee: Jimmy Eulors Date: 5-28-03
Deschutes Water Exchange

- 3.5 Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.

Other Attachments As Needed:

- Attachment 1: Tax Lot Map of Lessor's Property (required if landowner is not the sole landowner to lands for which the subject water rights are appurtenant)
- Attachment 2: Detailed map illustrating lands under subject rights to be leased (required if only part of a right is being leased instream).
- Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.5 is checked)
- Attachment 4: Split Season Instream Use Form

EXPORT	DINN	NAME	LEGAL_DESC	TAXLOT	HB3111_NAM	CERT PAGE #	BK_ACRES
YES	IL-1	Leo King	16-12-01-SE/SE-00602	161201D000602	King	5	0.20
YES	IL-3	Oregon Dept of Transportation	16-12-26-NW/SW-00201	161226C000201	Barrett	7	2.49
YES	IL-4	ODOT	16-12-27-NE/SE-00100	161227D000100	Three Sister School	8	2.59
YES	IL-5	ODOT	16-12-27-NE/SE-00200	161227D000200	Twiggs	8	0.26
YES	IL-7	Ray Nemeth	16-12-32-NW/NW-00502	1612320000502	Winston Ranch	12	0.80
YES	IL-8	George Johnson	17-12-04-NW/SE-00503	1712040000503	Johnson	13	0.75
YES	IL-9B	Schiff, Ron & Lauren	17-12-06-SE/SE-01104	1712060001104	Billings	15	0.10
YES	IL-9A	Schiff, Ron & Lauren	17-12-06-SE/SE-01103	1712060001103	Billings	15	0.40
YES	IL-11	Oscar Bratton	17-12-16-NW/NE-00500	171216AB00500	Bratton	19	0.25
YES	IL-14	ODOT	17-12-16-NW/SW-00500	171216C000500	Marcoulier	19	0.90
YES	IL-15	ODOT	17-12-16-SW/SW-00500	171216C000500	Marcoulier	19	2.20
YES	IL-16	John Chaky	17-12-16-SE/SW-00112	171216C000112	Bickler	20	3.00
YES	IL-17	William Matthews	17-12-16-NE/SE-00400	171216DA00400	Lee	20	4.50
YES	IL-18	ReMarkable Properties Inc	17-12-16-NE/SE-02100	1712160002100	ReMarkable	20	3.10
YES	IL-21	Desch.Co. Rural Fire Protection	17-12-17-NE/SE-00101		Cook	21	3.00
YES	IL-22	Harvest Park LLC	17-12-17-SW/SE-00609	171217D000609	Elliott	21	2.50
YES	IL-23	Harvest Park LLC	17-12-17-SW/SE-00614	171217D000614	Elliott	21	1.20
YES	IL-24	Harvest Park LLC	17-12-17-SW/SE-00616	171217D000616	Elliott	21	3.30
YES	IL-25	Harvest Park LLC	17-12-17-SE/SE-00609	171217D000609	Elliott	21	1.65
YES	IL-26	Harvest Park LLC	17-12-17-SE/SE-00615	171217D000615	Nettleton	21	2.00
YES	IL-27	Pat Elliott	17-12-17-SE/SE-00609		Elliott	21	2.25
YES	IL-28	S/S&H Baker Joint Venture	17-12-20-SW/NE-01801	1712200001801	Baker	22	3.00
YES	IL-29A	Sanderson Co.	17-12-20-NE/NW-04400	171220BA04400	Ashley	22	1.40
YES	IL-29B	Sanderson Co.	17-12-20-NE/NW-04600	171220BA04600	Ashley	22	1.60
YES	IL-30	Terri Pauls Family Ltd. Partnership	17-12-20-NE/NW-04500	171220BA04500	Ashley	22	1.00
YES	IL-31	Walker Family Trust	17-12-20-NE/SE-02800	171220DA02800	Hastings	22	0.30
YES	IL-32	Brown, Charlie & Sally	17-12-20-NE/SE-02200		Brown	22	2.00
YES	IL-33	Ron LaFranchi	17-12-20-NE/SE-00700,	171220DA00100	Harding, Larson	22	0.10
YES		Ron LaFranchi	17-12-20-NE/SE-01100		Harding, Larson		0.10
YES		Ron LaFranchi	17-12-20 NE SE 01200		Harding, Larson		0.25
YES		Ron LaFranchi	17-12-20 NE SE 01300		Harding, Larson		0.25
YES	IL-35	Gary Bell	17-12-21-NW/NE-00200	1712210000200	OCAT	22	3.46
YES	IL-36	Tracy Thompson	17-12-21-NE/NW-00600	171221BA00600	OCAT	23	0.15
YES	IL-37	Brandon Raz	17-12-21-NE/NW-00300	171221BA00300	OCAT	23	0.07
YES	IL-38	David Hilbig	17-12-21-NE/NW-00900	171221BA00900	OCAT	23	0.12
YES	IL-39	Gerald Brickell	17-12-21-NW/NE-01300	171221BA01300	OCAT	23	0.04
YES	IL-39	Gerald Brickell	17-12-21-NE/NW-01300	171221BA01300	OCAT	23	0.12
YES	IL-40	Gary Bell	17-12-21-NE/NW-00200		OCAT	23	1.54
YES	IL-41	Ron LaFranchi	17-12-21-NW/SW-01300	171221C001300	Hauth	23	0.50
YES	IL-42	Wm Walton	17-12-21-SW/SE-00700	171221DC00700	Beall	23	2.00
YES	IL-43	Richard Rungay	17-12-21-SE/SE-00200	171221DD00200	Rungay	23	3.00
YES	IL-44	Richard Rungay	17-12-21-SE/SE-00300	171221DD00300	Rungay	23	3.00
YES	IL-45	Gretchen Thoma	17-12-22-NW/SW-00401	1712220000401	Dornath	23	1.00
YES	IL-46	Pennbrook/Terrango Assoc	17-12-22-NW/SW-00403	1712220000403	Detroit	23	2.00
YES	IL-47	Yousuf Al-Hajeri/Cascade LLC	17-12-22-NW/SE-06200	171222DB06200	Al-Hejri	23	3.00
YES	IL-49	Richard Rungay	17-12-22-SW/SW-04400	171222CC04400	Rungay	23	1.50
YES	IL-50	Glenshire LLC	17-12-28-NW/NE-03300	171228AB03300	Steffy	23	2.00
YES	IL-51	Bennett Trust	17-12-28-NW/NE-03100	171228AB03100	Bestwick	23	2.00
YES	IL-52	ODOT	17-12-28-NW/NW-00400	171228B000400	ODOT	23	3.20
YES	IL-53	ODOT	17-12-28-NW/NW-00600	171228B000600	ODOT	23	2.00

5.50

RECEIVED
 MAY 20 2003
 WATER RESOURCES DEPT
 SALEM, OREGON

SID - Industrial	17-12-29 SE NE - 00000	Deschutes Reclamation & Irrigation	23	13.62
TOTAL				91.76